

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Bail Appl..No. 5692 of 2007()

CRIME NO.677/07 OF NEELESWAR POLICE STATION

PETITIONERS:

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1. RAFI N.P,AGED 24,S/O.IBRAHIM,
RESIDING AT THAIKKADAPPURAM,
NEELESWAR VIA,KASARGOD DISTRICT.
 2. ASHIM,AGED 23,S/O.ABOOBACKER,
RESIDING AT THAIKKADAPPURAM,
NEELESWAR VIA,KASARGOD DISTRICT.
 3. NOUFAL N.P,AGED 25,S/O.KHADER,
R.AT THAIKKADAPPURAM,NEELESWAR VIA,KASARGOD DIST.
 4. THEKKAN SHAFEER,S/O.MUHAMMED,AGED 22,
R.AT THAIKKADAPPURAM,NEELESWAR VIA,KASARGOD DIST.
 5. SADIQUE N.P,AGED 19,S/O.IBRAHIM,
R.AT THAIKKADAPPURAM,NEELESWAR VIA,KASARGOD DIST.
 6. SHAMSEER K.P,S/O.ABDUL RAHIMAN,AGED 20,
R.AT THAIKKADAPPURAM,NEELESWAR VIA,KASARGOD DIST.

BY ADV. SRI.T.MADHU

RESPONDENTS:

THE STATION HOUSE OFFICER,
NEELESWAR POLICE STATION,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 5692 OF 2007

Dated this the 20th day of September, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 6 in a crime registered, inter alia, under Secs.452 and 324 of the IPC. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The crux of the allegations against the petitioners is that on account of prior animosity, all the accused persons as members of an unlawful assembly, in prosecution of their common object, trespassed into the house of the de facto complainant with dangerous weapons, after making prior preparations, and assaulted the de facto complainant as well as his sister who tried to intervene and save her brother. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners submits that merely on account of prior animosity, such false allegations are being raised against the petitioners. The learned counsel for the petitioners submits that the petitioners do not deserve to endure the trauma of arrest and detention.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that this was a case of wanton violence after sufficient prior preparations. There are no circumstances at all which can justify the invocation of the powers under Sec.438 of the Cr.P.C. The learned Public Prosecutor submits that this is a fit case where the petitioners should be directed to surrender before the Investigating Officer or the learned Magistrate and seek regular bail.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am not satisfied that there are no features in this case which can justify the invocation of the powers under Sec.438 of the Cr.P.C.

6. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior

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notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge